

Notice of Allowability

Application No.

09/924,946

Examiner

Yong D. Pak

Applicant(s)

EVANS ET AL.

Art Unit

1652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment filed on 9/8/2006.
2. ☒ The allowed claim(s) is/are 69-90 and 92-95.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

DETAILED ACTION

The amendment filed on September 8, 2006, amending claims 70-71, 73, 75, 82-85 and 90-95, has been entered.

Claims 69-95 are pending and are under consideration.

Response to Arguments

Applicant's amendment and arguments filed on September 8, 2006, have been fully considered and in conjunction with the Examiner's Amendment set forth below, the rejections previously applied are hereby withdrawn.

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Ms. Klan on November 7, 2006.

The application has been amended as follows:

IN THE CLAIMS:

Amend the claims as follows.

A) In claim 70, line 3,

Replace "80" with -- 95 --.

B) In claim 80, line 1,

After "comprising the", insert -- isolated --.

Replace claims 90 and 92-95 with the following.

C) --90. (Currently amended) An isolated oligonucleotide primer or probe of [no more than 100] 50-100 nucleotides, wherein said [which] oligonucleotide comprises [a sequence] of at least 20 consecutive nucleotides of SEQ ID NO: 1] and [that] hybridizes under highly stringent condition[s] of 0.2x SSC at 68 °C[;] and a washing condition of 50% formamide, 4xSSC at 42°C with a nucleic acid having the nucleotide sequence of SEQ ID NO: 1.--

D) --92. (Currently amended) The isolated oligonucleotide primer or probe of claim 90, which is no more than 60 nucleotides in length.--

E) --93. (Currently amended) The isolated oligonucleotide primer or probe of claim 90, which is no more than 50 nucleotides in length.--

F) --94. (Currently amended) The isolated oligonucleotide primer or probe of claim 90 which is detectably labeled.--

G) --95. (Currently amended) An isolated oligonucleotide primer or probe of [no more than]100 nucleotides, wherein said [which] oligonucleotide comprises [consists essentially] of at least 20 consecutive nucleotides of SEQ ID NO: 1] and [that] hybridizes under highly stringent condition[s] of 0.2x SSC at 68 °C[;] and a washing condition of 50% formamide, 4xSSC at 42°C with a nucleic acid having the nucleotide sequence of SEQ ID NO: 1.--

H) Cancel claim 91.

Allowable Subject Matter

Claims 69-90 and 92-95 are allowed.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yong Pak whose telephone number is 571-272-0935. The examiner can normally be reached 6:30 A.M. to 5:00 P.M. Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ponnathapu Achutamurthy can be reached on 571-272-0928. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and 703-872-9307 for After Final communications.

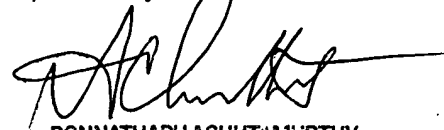
Application/Control Number:
09/924,946
Art Unit: 1652

Page 5

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-1600.

Yong D. Pak
Patent Examiner 1652

P. Achutamurthy
Supervisory Patent Examiner 1652

A handwritten signature in black ink, appearing to read 'P. Achutamurthy', with a long horizontal stroke extending to the right.

PONNATHAPU ACHUTAMURTHY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1652